

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARGARITO HERNANDEZ SANTOS,  
on behalf of himself, FLSA Collective Plaintiff,  
and the class,

Plaintiffs,

-against-

NUVE MIGUEL CORP. d/b/a KEY FOODS and  
LUIS H URGILES,

Defendants.  
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1:21-cv-01335(JPO)(RWL)

**DECLARATION  
OF KLEVER  
URGILES**

Klever Urgiles, pursuant to 28 U.S.C. § 1746, hereby declares under penalty of perjury that the following is true and correct:

1. I am and have been an owner and General Manager at Nuve Miguel Corp. d/b/a Key Foods (hereinafter, "Key Foods") since approximately 2001.
2. I have personal knowledge of the facts stated in this Declaration and would be competent to testify to the facts contained herein if called as a witness.
3. Key Foods, where Mr. Margarito Hernandez Santos worked as a stock person in the produce department, is a supermarket at 755 Amsterdam Avenue, New York.
4. I am familiar with the existing and historical wage and hour policies and practices of Key Foods.
5. Since February 2015 through the present, Key Foods employed both part-time and full-time hourly wage workers including, but not limited to, cashiers, stock persons, and counter workers. Mr. Santos worked the day shift as a stock person in the

produce department. Mr. Santos' hours were typically Monday through Friday from 8:00am to 4:00pm.

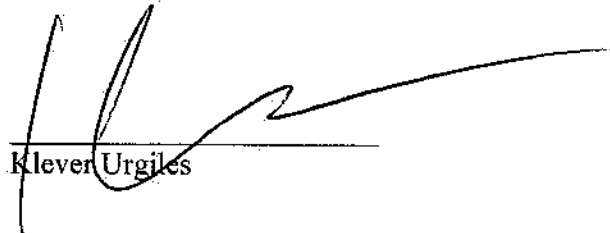
6. Key Foods also employed stock persons for the meat department, dairy department as well as dry goods. Key Foods further employed counter workers at the deli. These hourly workers, including cashiers, have varying duties and there is no uniform or common pay practice amongst these categories of workers.

7. Indeed, for our stock employees specifically, there were never overlapping shifts during the day. Once a stock person had clocked out for the morning shift, the evening shift employee would clock in. Key Foods is open 24-hours, and there are three shifts for each of the departments (day, evening, and overnight). There was never any need to require any morning shift or night shift stock persons to work overtime because we had enough stock persons and shifts to cover the work.

8. Several of our employees are part-time or weekend only, working less than five days per week and working less than eight (8) hours per day.

9. All hourly workers were required to clock-in and clock-out daily, but there existed no policy requiring hourly workers to clock-in and clock-out after a specific set of hours, and nor was there common policy in place that required workers to perform their duties during their unpaid lunch hours. As such, there was never any need for "time shaving" as Plaintiff has alleged in his Complaint and moving papers.

Dated: New York, New York  
September 16, 2021



Klever Urgiles